IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

Writ Petition No. 754 (S/S) of 2007

Sri Hari Ram S/o Late Sri Khim Ram Arya
R/O Village Chauna, Patti Malla Tikhun, P.O. Dhaulaghat
District- Almora ------- Petitioner

Versus

1. State of Uttarakhand through Principal Secretary, Irrigation Department, Government of Uttarakhand, Dehradun
2. Engineer/ H.O.D., Irrigation Department, Uttarakhand, Dehradun
3. State of U.P. through Principal Secretary, Irrigation Department, Government of U.P., Lucknow
4. Chairman, State Advisory Committee, Gate No. 31 Jawahar Lal Nehru Stadium, Lodhi Road, New Delhi
5. Union of India through Secretary, Ministry of Personnel Public Grievances and Pensions, Lok Nayak Bhawan 3rd Floor, Khan Market, New Delhi

------ Respondents

Hon'ble M.M. Ghildiyal, J.

Heard Sri K.C. Joshi, learned counsel for the petitioner, Sri N.P. Shah, learned Standing Counsel State of Uttarakhand, Smt. Beena Pandey, learned Standing Counsel State of U.P. and Smt. Anjali Bhargav, learned Standing Counsel Union of India for the respondents.

By means of this writ petition, the petitioner has prayed for the following reliefs:

1. To issue a writ, order or direction in the nature of certiorari for quashing the impugned order dated 15.05.2007 passed by the respondent no. 1, in so far as it relates to the petitioner.
2. To issue a writ, order or direction in the nature of mandamus commanding respondent no. 5 to consider claim of the

petitioner for final allotment to Uttarakhand State in the light of the norms fixed for this purpose and pass appropriate order regarding his final allotment to Uttarakhand State.

3. To issue a writ, order or direction in the nature of mandamus restraining the respondent no. 1 from relieving the petitioner for U.P. till appropriate orders are passed by the respondent no. 4 on petitioner's representation.

4. To issue any other writ, order or direction, which this Hon'ble Court may deem fit and proper in the circumstances of the case.

5. Award the cost of the writ petition in favour of the petitioner.

Vide order dated 15th may, 2007, Additional Chief Secretary, State of Uttarakhand has passed an order for relieving of petitioner, who is working as Senior Clerk in the Irrigation Department, to State of U.P. This order has been passed by the Additional Chief Secretary in pursuance to the final allocation list issued by the Union of India in respect of employees of Irrigation Department in the State of U.P. and State of Uttarakhand. By this order, the petitioner has been finally allocated for State of U.P. and, consequently, he has been directed to be relived for State of U.P.

The submission of the learned counsel for the petitioner is that the petitioner is a permanent resident of State of Uttarakhand. He has opted for State of Uttarakhand and, in fact, in the temporary final allocation list, the name of petitioner finds place in the list of candidates, who have been temporarily allocated State of Uttarakhand.

No objection was filed by the petitioner against the temporary final allocation list, meaning thereby, he was not aggrieved against the tentative final allocation list and he should have been finally allocated for State of Uttarakhand, however, the Union of India has allocated the petitioner for State of U.P. The petitioner has not challenged the final allocation list issued by the Union of India and in the circumstances, this Court cannot direct the Government of Uttarakhand not to relieve the petitioner for State of U.P.

In this situation, the petitioner has a remedy which has been provided by the Union of India by issuing a Circular that after allocation of the candidates for State of U.P. or Uttarakhand, in case any employee is facing an difficulty because of any problem, he may approach the State Governments for mutual transfer and the State of U.P. and Uttarakhand may consider such type of cases after framing guide-lines in this respect. The petitioner may approach both the Governments for mutual transfer in pursuance to Circular issued by the Union of India. Since the final allocation list is not challenged in this writ petition, no direction can be issued by the Court to the respondents not to relieve the petitioner for State of U.P.

With this direction, the writ petition is finally disposed of. All the pending applications stand disposed of.

(M.M. Ghildiyal, J.)

02.07.2007
VKS